



DEPARTMENT OF COMMERCE

International Trade Administration

[C-489-845]

Certain Aluminum Foil from the Republic of Turkey: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of certain aluminum foil (aluminum foil) from the Republic of Turkey (Turkey) during the period of investigation, January 1, 2019, through December 31, 2019.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Whitley Herndon or Eliza Siordia, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6274 or (202) 482-3878, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 5, 2021, Commerce published the *Preliminary Determination* in the *Federal Register*.¹ In the *Preliminary Determination*, and in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4), Commerce aligned the final determination of this countervailing duty (CVD) investigation with the final determination in the companion antidumping duty (AD) investigation of aluminum foil from Turkey.

¹ See *Certain Aluminum Foil from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 86 FR 12911 (March 5, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

A summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Scope of the Investigation

The product covered by this investigation is aluminum foil from Turkey. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,³ the *Initiation Notice*⁴ set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation Notice*, and we addressed these comments in the Preliminary Scope Decision Memorandum.⁶ Interested parties were provided an opportunity to comment on the Preliminary Scope Decision Memorandum.⁷ We received no scope case briefs requesting changes to the scope of the investigation from interested parties in any of the AD or CVD investigations of aluminum foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Aluminum Foil from the Republic of Turkey," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁴ See *Certain Aluminum Foil from the Sultanate of Oman and the Republic of Turkey: Initiation of Countervailing Duty Investigations*, 85 FR 68287 (October 28, 2020) (*Initiation Notice*).

⁵ *Id.*, 85 FR at 68288.

⁶ See Memorandum, "Preliminary Scope Determination and Comment Period," dated September 3, 2021 (containing the Memorandum, "Antidumping and Countervailing Duty Investigations of Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Preliminary Scope Decision Memorandum," dated April 27, 2021 (Preliminary Scope Decision Memorandum)).

⁷ *Id.*

Turkey. Additionally, we received a letter from the petitioners⁸ urging Commerce to maintain the same scope language which was set forth in both the *Initiation Notice* or *Preliminary Determination*.⁹ Accordingly, Commerce is not modifying the scope language as it appeared in the *Initiation Notice* or *Preliminary Determination*. See Appendix I for the final scope of the investigation.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.¹⁰

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs by parties in this investigation, are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, see Appendix II of this notice.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.¹¹ For a full description of the methodology underlying our final determination, see the Issues and Decision Memorandum. Commerce notes that, in making these findings, it relied, in part, on facts otherwise available and, because Commerce finds that the

⁸ The Aluminum Association Trade Enforcement Working Group and its individual members, Granges America Inc., JW Aluminum Company and Novelis Corporation constitute the petitioners.

⁹ See Petitioners’ Letter, “Petitioners’ Final Scope Comments,” dated September 8, 2021.

¹⁰ See Commerce’s Letter, “Countervailing Duty Investigation of Certain Aluminum Foil from the Republic of Turkey – Request for Documentation,” dated March 15, 2021.

¹¹ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Government of Turkey did not act to the best of its ability to respond to Commerce’s requests for information, Commerce drew an adverse inference where appropriate in selecting from among the facts otherwise available.¹² For further information, *see* the section entitled “Use of Facts Otherwise Available and Application of Adverse Inferences” in the Issues and Decision Memorandum.

Changes Since the *Preliminary Determination*

Based on our review and analysis of the comments received from parties, we made certain changes to the subsidy rate calculations for Assan Aluminyum Sanayi ve Ticaret A.S. (Assan) and its cross-owned affiliates Ispak Esnek Ambalaj Sanayi A.S., Kibar Holding, and Kibar Dis Ticaret A.S. (Kibar Dis). For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 705(c)(5)(A) of the Act provides that in the final determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any rates that are zero, *de minimis*, or based entirely under section 776 of the Act.

In this investigation, we continue to calculate the all-others rate using the estimated weighted-average rate calculated for Assan and its cross-owned affiliates.¹³

Final Determination

Commerce determines that the following countervailable subsidy rates exist:

Producer / Exporter	Subsidy Rate (percent)
Assan Aluminyum Sanayi ve Ticaret A.S. ¹⁴	2.60

¹² *See* sections 776(a) and (b) of the Act.

¹³ Commerce also selected Kibar Dis as a mandatory company respondent in this investigation. However, Commerce has found Kibar Dis to be a cross-owned affiliate of Assan, and we are not calculating a separate subsidy rate for Kibar Dis.

¹⁴ Commerce has found Kibar Dis, Kibar Holding, and Ispak Esnek Ambalaj Sanayi A.S. to be cross-owned, pursuant to 19 CFR 351.525(b)(6)(vi), with Assan Aluminyum Sanayi ve Ticaret A.S.

All Others	2.60
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Disclosure

Commerce intends to disclose to interested parties its calculations and analysis performed in this final determination within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after March 5, 2021, the date of publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, effective July 3, 2021, we instructed CBP to discontinue the suspension of liquidation of all entries at that time, but to continue the suspension of liquidation of all entries from March 5, 2021, through July 2, 2021.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of aluminum foil from Turkey. As Commerce's final determination is affirmative, in

accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured or threatened with material injury. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding APO

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 771(i) of the Act, and 19 CFR 351.210(c).

Dated: September 16, 2021.

James Maeder,
Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is aluminum foil having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width. Aluminum foil is made from an aluminum alloy that contains more than 92 percent aluminum. Aluminum foil may be made to ASTM specification ASTM B479, but can also be made to other specifications. Regardless of specification, however, all aluminum foil meeting the scope description is included in the scope, including aluminum foil to which lubricant has been applied to one or both sides of the foil.

Excluded from the scope of this investigation is aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on one side or both sides of the aluminum foil, as well as etched capacitor foil and aluminum foil that is cut to shape. Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above. The products under investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6090, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000.

Further, merchandise that falls within the scope of this proceeding may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3091, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Subsidies Valuation Information
- IV. Use of Facts Otherwise Available and Application of Adverse Inferences
- V. Analysis of the Programs
- VI. Discussion of the Issues
 - Comment 1: Whether to Revise the Sales Denominators
 - Comment 2: Whether to Use Total Sales as the Denominator for the Exemptions on Exchange Tax for Foreign Exchange Transactions
 - Comment 3: How to Compute the Benefit Calculation for the Rediscount Loan Program and the Export-Oriented Working Capital Credit Program
 - Comment 4: Whether to Apply Adverse Facts Available (AFA) to “Other” Subsidy Programs
 - Comment 5: Whether Certain Ministerial Errors Exist
 - Comment 6: Whether the Value-Added-Tax (VAT) Exemption on the Acquisition of Operating Rights Provided a Measurable Benefit to Assan
- VII. Recommendation

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